

FISH & RICHARDSON P.C.

12390 El Camino Real
San Diego, California
92130

Telephone
858 678-5070

Facsimile
858 678-5099

Web Site
www.fr.com

January 15, 2004

Attorney Docket No.: 12361-025001

Mail Stop Patent Application

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

Presented for filing is a new patent application claiming priority from a provisional patent application of:

Applicant: X. STEVE YAO AND YONGQIANG SHI

Title: OPTICAL SPECTRUM MONITOR

Enclosed are the following papers, including those required to receive a filing date under 37 CFR §1.53(b):

| | <u>Pages</u> |
|---------------|-------------------------------|
| Specification | 13 |
| Claims | 6 |
| Abstract | 1 |
| Declaration | [To be Filed at a Later Date] |
| Drawing(s) | 1 |

Enclosures:

- Request for NonPublication, 1 page.
- Postcard.

Under 35 USC §119(e)(1), this application claims the benefit of prior U.S. provisional application 60/441,112, filed January 17, 2003.

This application is entitled to small entity status.

| | |
|--|-----|
| Basic filing fee | \$0 |
| Total claims in excess of 20 times \$9 | \$0 |
| Independent claims in excess of 3 times \$43 | \$0 |
| Fee for multiple dependent claims | \$0 |
| Total filing fee: | \$0 |

Under 37 CFR §1.53(f), no filing fee is being paid at this time.

CERTIFICATE OF MAILING BY EXPRESS MAIL

Express Mail Label No. EV 399311485 US

Date of Deposit Jan. 15, 2004



BOSTON

DALLAS

DELAWARE

NEW YORK

SAN DIEGO

SILICON VALLEY

TWIN CITIES

WASHINGTON, DC

FISH & RICHARDSON P.C.

Commissioner for Patents
January 15, 2004
Page 2

If this application is found to be incomplete, or if a telephone conference would otherwise be helpful, please call the undersigned at (858) 678-5070.

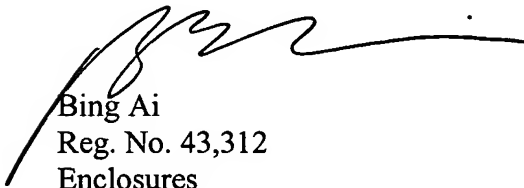
Kindly acknowledge receipt of this application by returning the enclosed postcard.

Please direct all correspondence to the following:

20985

PTO Customer Number

Respectfully submitted,



Bing Ai
Reg. No. 43,312
Enclosures
BXA/sxg
10359591.doc

**REQUEST AND CERTIFICATION
UNDER
35 U.S.C. 122(b)(2)(B)(i)**

First Named Inventor X. Steve Yao, et al.

Title Optical Spectrum Monitor

Atty Docket Number 12361-025001

I hereby certify that the invention disclosed in the attached application **has not and will not** be the subject of an application filed in another country, or under a multilateral agreement, that requires publication at eighteen months after filing. I hereby request that the attached application not be published under 35 U.S.C. 122(b).

Jan. 15, 2004

Date

Signature

Bing Ai

Typed or printed name

This request must be signed in compliance with 37 CFR 1.33(b) and submitted with the application **upon filing**.

Applicant may rescind this nonpublication request at any time. If applicant rescinds a request that an application not be published under 35 U.S.C. 122(b), the application will be scheduled for publication at eighteen months from the earliest claimed filing date for which a benefit is claimed.

If applicant subsequently files an application directed to the invention disclosed in the attached application in another country, or under a multilateral international agreement, that requires publication of applications eighteen months after filing, the applicant **must** notify the United States Patent and Trademark Office of such filing within forty-five (45) days after the date of the filing of such foreign or international application. **Failure to do so will result in abandonment of this application (35 U.S.C. 122(b)(2)(B)(iii)).**